

THE WASHINGTON STATE GOVERNOR'S OFFICE UNIFORM JUDICIAL EVALUATION QUESTIONNAIRE

I. Judicial Position	
Position Sought JUDGE – POSITION 2	Court, Division, or District CITY OF SPOKANE MUNICIPAL COURT

II. Personal Information	
Name (Surname(s) followed by Given Name(s)) MARY CAROL LOGAN	Email (Personal and Work) MLOGAN@SPOKANECITY.ORG
Home Mailing Address	City, State, ZIP SPOKANE WA 99203
Work Mailing Address 1100 S MALLON ANNEX "A"	City, State, ZIP SPOKANE WA 99260
Phone Number (Personal and Work) /509-622-5867	
	Social Security Number¹
WSBA Bar Number and Year of Admission California: 138687 – 1988; Washington: 25782 - 1996	Date of Birth (mm/dd/yyyy) [REDACTED]/1960

III. Prior Evaluation and Application History
<p>Please list all prior judicial positions sought. Please list evaluations you received as part of that process, including dates.</p> <p>2006:COUNTY OF SPOKANE DISTRICT COURT JUDGE POSITION 4: WASHINGTON WOMEN LAWYERS “WELL QUALIFIED” SPOKANE COUNTY BAR POLL “WELL QUALIFIED”; SPOKESMAN EDITORIAL REVIEW BOARD ENDORSED ME AS “THE FACE OF CHANGE” OVER INCUMBENT JUDGE. THIS WAS AN OPEN ELECTION AND I LOST. 2008 SUBMITTED, ALONG WITH 25 OTHER ATTORNEYS AND COURT COMMISSIONERS, FOR CONSIDERATION FOR MAYORAL APPOINTMENT TO ONE OF 3 POSITIONS ON THE NEWLY MINTED CITY OF SPOKANE MUNICIPAL COURT AND WAS SELECTED AND HAVE SAT UNOPPOSED SINCE 2009 IN POSITION 2.</p>

IV. Education		
Please list all law school, graduate, and undergraduate colleges and universities attended.		
College/University SAN DIEGO STATE UNIVERSITY	Month and Year Attended (From and To) 09/1978-06/1981	Degree Awarded NA
College/University UNIVERSITY OF MONTANA	Month and Year Attended (From and To) 09/1981-06/1983	Degree Awarded BACHELOR OF ARTS
College/University THOMAS JEFFERSON SCHOOL OF LAW	Month and Year Attended (From and To) 09/1983-12/1983;09/1984-05/1986	Degree Awarded NA
College/University MONTEREY COLLEGE OF LAW	Month and Year Attended (From and To) 09/1986-05/1988	Degree Awarded JURIS DOCTOR
If you did not complete your degree at any of these schools, please explain why. TRANSFERRED AFTER TWO YEARS AT SAN DIEGO STATE COMPLETING B.A. AT UNIVERSITY OF MONTANA; TRANSFERRED FROM THOMAS JEFFERSON SCHOOL OF LAW MIDWAY TO COMPLETE DEGREE IN MONTEREY		

V. Professional History	
Please list all of your employment in the legal field, and any other employment that is relevant to your application for a judicial appointment.	
1. Present or Last Employer CITY OF SPOKANE	Dates of Employment From 2009 To PRESENT
Your Title JUDGE	Employer's Phone 509-625-6130

¹ Please only include your Social Security number on the copy of the questionnaire forwarded to the Governor's Office.
 Washington Uniform Judicial Evaluation Questionnaire (updated 3/18/25)

Employer's Address 880 SPOKANE FALLS BLVD	Supervisor's Name NOT APPLICABLE
Nature of Practice (including frequency of court appearances and areas of special emphasis) LIMITED JURISDICTION CRIMINAL LAW VIOLATIONS FROM GROSS MISDEMEANORS TO SIMPLE MISDEMEANORS – SOME HANDLED VIA TRADITIONAL DOCKETS, SMALL PERCENTAGE BY EITHER VETERANS' ENHANCED TREATMENT COURT OR COMMUNITY COURT BOTH OVER WHICH I PRESIDE; DAILY COURT APPEARANCES FOR THE PAST 16 YEARS, COUPLED WITH REGULAR 24/7 WARRANT REVIEW SHIFTS EVERY 5-6 WEEKS; NUMEROUS STATEWIDE COMMITTEE AND TASK FORCE WORK	
Reason for Leaving HOPEFULLY I AM NOT, IF ELECTION GOES AS I AM WORKING TOWARDS	

2. Previous Employer CITY OF SPOKANE PUBLIC DEFENDER'S OFFICE	Dates of Employment From 06/1997 To 12/2008
Your Title ASSISTANT CITY PUBLIC DEFENDER – ATTORNEY III	Employer's Phone 509-835-5955
Employer's Address 824 N MONROE ST SPOKANE WA	Supervisor's Name KATHY KNOX (DECEASED)
Nature of Practice (including frequency of court appearances and areas of special emphasis) PROVISION OF CRIMINAL DEFENSE TO THE INDIGENT ACCUSED OF GROSS AND SIMPLE MISDEMEANORS, AND CLASS "C" FELONIES (ON CONFLICT FROM COUNTY) FROM ARRAIGNMENT THROUGH TRIAL	
Reason for Leaving APPOINTED AS A JUDGE TO THE CITY OF SPOKANE MUNICIPAL COURT	

3. Previous Employer ATCHISON, ANDERSON, HURLEY & BARISONE	Dates of Employment From 10/1993 To 10/1996
Your Title MANAGING ASSOCIATE ATTORNEY	Employer's Phone 831-423-8383
Employer's Address 333 CHURCH STREET SANTA CRUZ CA 95060-3811	Supervisor's Name VINCENT HURLEY
Nature of Practice (including frequency of court appearances and areas of special emphasis) MUNICIPAL DEFENSE REPRESENTING 13 CITIES ALONG THE CENTRAL COAST OF CALIFORNIA FROM SANTA CRUZ TO KING CITY INVOLVING VARIOUS CIVIL LITIGATION MATTERS FROM SLIP AND FALL DEFENSE TO FEDERAL MATTERS INVOLVING ALLEGATIONS OF POLICE MISCONDUCT. WEEKLY COURT APPEARANCES AND REGULAR TRIAL PREPARATION	
Reason for Leaving DECIDED TO MOVE TO SPOKANE	

4. Previous Employer LAW OFFICE OF ANTHON FREY/ LAW FIRM OF FREY & LOGAN	Dates of Employment From 08/1988 To 09/1993
Your Title INITIALLY CLERK, THEN JUNIOR ATTORNEY THEN PARTNER	Employer's Phone NO LONGER IN SERVICE
Employer's Address 22 W. GABILAN SALINAS CA 93901	Supervisor's Name INITIALLY ANTHONY FREY – NOW DECEASED
Nature of Practice (including frequency of court appearances and areas of special emphasis) MEDICAL MALPRACTICE SPECIALIZING IN BIRTH TRAUMA CASES AS WELL AS WRONGFUL DEATH, PERSONAL INJURY AND PRODUCT LIABILITY REPRESENTING PLAINTIFFS. IN COURT SEVERAL TIMES PER MONTH. ALSO MANAGING PARTNER OVERSEEING THE BUSINESS END OF THE PRACTICE.	
Reason for Leaving AFTER LOSING A NEGLIGENT SECURITY TRIAL THE OPPOSING FIRM OFFERED ME A JOB – AND WITH FULL SUPPORT OF MY LAW PARTNER, I ACCEPTED AND BEGAN WORKING FOR ATCHISON, ANDERSON, HURLEY & BARISONE.	

Please list any additional employment in the legal field, and any other employment that is relevant to your application for a judicial appointment, and include the same information sought in previous Section V questions.
NO OTHER THAN LISTED ABOVE

VI. Jurisdictions, Associations, and Awards

List all courts and jurisdictions in which you have been admitted to practice law and the dates of admission. Include administrative bodies.

CALIFORNIA BAR ASSOCIATION: MEMBER IN GOOD STANDING 12/1988- INACTIVE; WASHINGTON BAR ASSOCIATION: MEMBER IN GOOD STANDING 06/1996

Please list all bar associations and professional societies of which you are a member and provide the titles and dates of any offices that you have held in such groups.

DISTRICT AND MUNICIPAL COURT JUDGES ASSOCIATION; SPOKANE COUNTY BAR ASSOCIATION – JUDICIAL MEMBER

Are you in good standing in every bar association of which you are a member? YES If you answered “no”, please explain.

If you have been a judge, please identify court committees on which you served or administrative positions you have held. Include dates of services for each.

-BOARD OF GOVERNORS -MUNICIPAL COURT REPRESENTATIVE POSITION 5 – DISTRICT AND MUNICIPAL COURT JUDGES ASSOCIATION (DMCJA) – 2010-2014;

-DMCJA EDUCATION COMMITTEE MEMBER – 2010-2016;

-BOARD OF JUDICIAL ADMINISTRATION – DMCJA REPRESENTATIVE – BUDGET AND FINANCE COMMITTEE CHAIR 2016-2024;

-BOARD OF JUDICIAL ADMINISTRATION TRIAL COURT OPERATIONS FUNDING COMMITTEE (DMCJA) 2014;

-DMCJA THERAPEUTIC COURTS COMMITTEE MEMBER– 2012-PRESENT;

-DMCJA DIVERSITY COMMITTEE MEMBER – 2012-2014; 2014-2016;

-DMCJA LONG RANGE PLANNING COMMITTEE – 2012-2024;

-DMCJA JUDICIAL NEEDS WORK GROUP 2014;

-DMCJA ADULT STATIC RISK ASSESSMENT COMMITTEE – 2012-2014;

-DMCJA JUDICIAL ASSISTANCE SERVICES PROGRAM PEER COUNSELOR AND COMMITTEE CHAIR(FOR 2024-2025) 2014-PRESENT;

-SPOKANE REGIONAL LAW AND JUSTICE COMMITTEE RISK, NEEDS AND RESPONSIVITY SUBCOMMITTEE MEMBER – 2014;

-SPOKANE COUNTY MEMBER CAMPUS SECURITY COMMITTEE – 2009-2014;

-JUDICIAL REPRESENTATIVE ON CITY OF SPOKANE MAYOR CONDON’S URBAN TASK FORCE 2018;

-CRISIS INTERVENTION TRAINOR WITH CITY OF SPOKANE POLICE DEPARTMENT - APPROXIMATELY 2014;

-SPOKANE COUNTY PRIORITY SPOKANE PUBLIC SAFETY COMMITTEE MEMBER – 2010-2019;

- CENTER FOR COURT INNOVATION COMMUNITY COURT MENTOR SITE PEER REVIEWER – 2018;

-CENTER FOR JUSTICE INNOVATION MENTOR COURT JUDICIAL LEADER – 2018 TO PRESENT;

Please list any honors, prizes, awards, or other forms of recognition that you have received.

-DMCJA PRESIDENTIAL AWARD – 2024;

-WASHINGTON STATE BAR ASSOCIATION APEX AWARD OF MERIT COMMUNITY COURT – 2018;

- WASHINGTON STATE BAR ASSOCIATION ACCESS JUDICIAL LEADERSHIP AWARD – 2015;

-CERTIFICATE OF EXCELLENCE – TEAMWORK – MAYORAL RECOGNITION – 2014;

-SPOKANE CENTER FOR JUSTICE- JUSTICE HERO AWARD – 2014;

-MISDEMEANANT PROBATION ASSOCIATION PROGRAM OF THE YEAR – COMMUNITY COURT – 2014

VII. Professional Practice Experience

How many of your appearances, either as counsel or as a judicial officer, in the last fifteen years were in:

WA Appellate Courts

- ☐ 0 cases
☐ 1-10 cases
☐ 11-50 cases
☐ 50-100 cases
☐ > 100 cases

WA Trial Courts

- ☐ 0 cases
☐ 1-10 cases
☐ 11-50 cases
☐ 50-100 cases
☐ > 100 cases

WA District Courts

- ☐ 0 cases
☐ 1-10 cases
☐ 11-50 cases
☐ 50-100 cases
☐ > 100 cases

WA Municipal Courts

- ☐ 0 cases
☐ 1-10 cases
☐ 11-50 cases
☐ 50-100 cases
X > 100 cases

WA Administrative Tribunals

- ☐ 0 cases
☐ 1-10 cases
☐ 11-50 cases
☐ 50-100 cases
☐ > 100 cases

Federal Appellate Courts

- ☐ 0 cases
☐ 1-10 cases
☐ 11-50 cases
☐ 50-100 cases
☐ > 100 cases

Federal Trial Courts

- ☐ 0 cases
☐ 1-10 cases
☐ 11-50 cases
☐ 50-100 cases
☐ > 100 cases

Federal Administrative Tribunals

- ☐ 0 cases
☐ 1-10 cases
☐ 11-50 cases
☐ 50-100 cases
☐ > 100 cases

Tribal Trial Courts

- ☐ 0 cases
☐ 1-10 cases
☐ 11-50 cases
☐ 50-100 cases
☐ > 100 cases

Tribal Appellate Courts

- ☐ 0 cases
☐ 1-10 cases
☐ 11-50 cases
☐ 50-100 cases
☐ > 100 cases

Other (please specify):

- ☐ 0 cases
☐ 1-10 cases
☐ 11-50 cases
☐ 50-100 cases
☐ > 100 cases

What percentage of your practice in the last fifteen years was in:

Civil Litigation (excl. family law) 0%

Criminal Litigation 85%

Family Law Litigation 0%

Non-Litigation 15%

What percentage of your trials in the last fifteen years were:

Jury Trials 75%

Non-Jury Trials 25%

TRIAL EXPERIENCE: Indicate the total number of cases during your career that you have tried to verdict or judgment (rather than settled) in the following courts, and indicate the following percentages: trials in which you were the sole counsel or chief counsel, jury trials, and trials where you were the arbiter/decision maker.

Court	Number	% as sole/Chief Counsel	% Jury	% as the Arbiter
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WA Superior Court	1	100	100	
WA District Court				
WA Municipal Court	80	50		50
WA Administrative Tribunals				
Federal District Court				
Federal Administrative Tribunals				
Tribal Court				
Other (please describe)				

APPELLATE EXPERIENCE: Indicate the total number of appellate cases during your career where you appeared as counsel of record in the following courts, and indicate for each court the following percentages: cases where you were sole counsel or chief counsel, and cases where you were the arbiter/decision maker (if applicable).

NONE

Court	Number	% as sole/Chief Counsel	% as the Arbiter
WA Supreme Court			
WA Division I COA			
WA Division II COA			
WA Division III COA			
WA Superior Court			
U.S. Supreme Court			
Federal Courts of Appeal			

Briefly describe five significant matters that you directly handled as counsel, and include the reason that each is significant to you. For each, please provide the name of the judge or other judicial officer, and the case citation, if applicable.

STURTEVANT v. COUNTY OF MONTEREY 228 Cal. App.3d. 758 (1991): in collaboration with two other attorneys, I assisted in creating a niche in the law of worker's compensation rights by allowing an employee the victim of medical malpractice by the treating physician of a worker's compensation injury to sue that doctor for their malpractice in her care. This case represented to me the actual ability to significantly change not only the law, but to provide relief to a person when she had lost hope.

JF v. Southland Corporation – not a published case - Judge Harkjoon Pak, Justin Lighty from Atchison, Anderson, Hurley and Barisone was opposing counsel. This was my first solo civil jury trial with the use of an expert witness. While I had undergone trial training by NITA and knew the tools of the trade for trial, it was a different level of responsibility to carry the responsibility of my client alone, let alone in front of this particular judge who had a reputation. I learned to never allow a judge to bully me into decisions regarding my client's rights, to make certain when I proffer an expert that they really are one and appeal despite the reputation of the judge. While I lost, my professionalism and the manner in which I held myself in court resulted in a job offer from the opposing firm.

E.V. v. Community Hospital of the Monterey Peninsula (CHOMP)– 1991-1992 – while not a trial, this was a tragic case of a family from Tonga who came to our firm after their young son drank dish soap his father had stolen from his job resulting in severe esophageal burns in his throat. From the failure to properly train and warn at the jobsite through to mishandling of the child upon presentation to the ED of CHOMP (they treated the child as if he had swallowed a penny and not a toxic substance) this case demonstrated the depth required when stepping into complex litigation and how important good communication and client care are particularly when someone has only a partial understanding of their circumstances.

City of Spokane v. Neil G – 1997/1998 – Judge Sara Derr – not a trial; Mr. G was a functioning heroin addict, shooting up before putting on the morning coffee and getting breakfast for his family. He worked full time at a low paying job and would occasionally steal small items. On the first round of cases I had with him, there was not a plausible defense so he pled and was placed on probation with a term not to commit any further similar violations. While on probation, he was caught stealing a \$1.39 package of chocolate covered peanuts. At the hearing on violation of probation, I raised his addiction and need for treatment. Judge Derr sentenced him to the balance of 269 days in jail. This sentence seemed to me wholly in excess of what was really represented by the totality of the circumstance including that Mr. G posed no risk to public safety and ignored any desire to address root causes of his behavior – and a lack of understanding of addiction and recovery.

City of Spokane v. Gary P – 2004 – Judge Richard White. Mr. P was a functioning alcoholic who believed his life was not negatively affected by his exuberant use of alcohol. During the course of my representation, he was charged first with Trespass 1 – DV when, on moving out from a girlfriend’s house, he went back inside and left her note. In the midst of that case he was then charged with a DUI. The Trespass charge was ultimately dismissed, he pled to the DUI and began treatment for the first time in his life. After satisfactorily completing in-patient, he had re-engaged with the same woman from the trespass case – and she ultimately accused him of assaulting her. I took the Assault DV to trial and Mr. P was acquitted. Mr. P continued working his sobriety during this time and shared that he was participating in Senior Olympics. Approximately 6 months after the trial I crossed paths with him and he detailed that during all of the above, his father was threatening to remove him from the will if he did not clean up his life. Mr. P stood to inherit a considerable sum – the balance of the decision of that inheritance rested in his acquittal. At no time did he ever share that during the course of my representation. He thanked me for never losing faith in him and guiding him through this troubling period. This case was really representative of the work throughout my tenure at the City of Spokane Public Defender’s Office and highlighted how important it is to never make the mistake of generalizing the people who find themselves in trouble with the law – to remain mindful of the uniqueness of each individual and to provide for them their due respect.

State in detail your experience in adversary proceedings before administrative boards or commissions during the last ten years. NONE

Describe any experience you have in Tribal courts and/or addressing Tribal law or Indian law issues in your practice.
A RECURRING ISSUE OF INABILITY TO SEE DOMESTIC VIOLENCE PROTECTION ORDERS FROM TRIBAL COURT HAS RESULTED IN DISCUSSIONS AMONG THE DMCJA AND TRIBAL MEMBERS IN AN EFFORT TO SHARE THAT INFORMATION STATEWIDE – WITHOUT RELIEF DUE TO THE INABILITY TO SHARE INFORMATION FROM SYSTEMS

Please briefly describe any legal non-litigation experience that you feel enhances your qualifications to serve as a judge.
I HAVE BEEN INVOLVED IN THE LEGAL TRAINING OF GONZAGA SCHOOL OF LAW STUDENTS SITTING AS MENTOR FOR CLIENT COUNSELING COMPETITIONS AND JUDGING LINDEN CUP MOOT COURT FROM 1998 TO PRESENT

Optional: Please list leadership positions you’ve held in bar associations and professional societies that you believe to be of particular significance.

IN 2009 I WAS ELECTED TO BE THE STATEWIDE MUNICIPAL COURT REPRESENTATIVE FOR DISTRICT 5 OF THE DISTRICT AND MUNICIPAL COURT JUDGES ASSOCIATION FOR 4 YEARS. I WAS THEN ELECTED AS THE MUNICIPAL COURT REPRESENTATIVE ON STATEWIDE BOARD OF JUDICIAL ADMINISTRATION – A BOARD MADE UP OF JUSTICES AND JUDGES FROM ALL LEVELS OF COURT A POSITION I HELD FOR 8 YEARS.

VIII. Judicial Interest and Experience

In 75 words or less, please describe why you are seeking a judicial position.

I BECAME A LAWYER TO CHANGE THE WORLD. I HAVE LEARNED THAT REAL CHANGE RESULTED FROM WORK ON ONE PERSON, ONE CLIENT AT A TIME BUT TRAPPED IN A SYSTEM THAT WAS STAGNANT. AS A JUDGE, I HAVE INTRODUCED INNOVATIONS THAT HAVE EVOLVED THE SYSTEM BY BREAKING TRADITIONAL MODES. I WOULD LIKE THE OPPORTUNITY TO ENSURE THAT EVOLUTION CONTINUES.

In 75 words or less, please describe the type of judge you aspire to be.

COMMITMENT TO SERVING THE COMMUNITY WITH INTEGRITY AND RESPECT FOR THE LAW. KNOWN FOR MAKING THOUGHTFUL DECISIONS THAT MEET INDIVIDUAL NEEDS WHILE ENSURING ACCOUNTABILITY TO THE COMMUNITY AND ADHERENCE TO THE RULE OF LAW. PLACING MY PROFESSION AND DUTY OVER PERSONAL GAIN. DEMONSTRATED COMMITMENT TO PRINCIPALS BY ACTION OVER WORDS ALONE.

Have you ever held a judicial office? YES If you answered “yes”, please provide details, including the courts involved, whether elected or appointed, and periods of your service.

PLEASE SEE ABOVE.

Have you ever held public office other than a judicial office? NO If you answered “yes”, please provide details, including the offices involved, whether elected or appointed, and periods of your service.

Please briefly identify all of your experience as a neutral decision-maker (e.g. permanent or pro tem judge in any jurisdiction, administrative law judge, arbitrator, hearing officer, etc.). List the courts/jurisdictions and provide approximate dates.

PLEASE SEE ABOVE

If you seek an appellate court position, please describe how your previous judicial experience prepared you to serve as an appellate court judge.

NOT APPLICABLE

IX. Community and Civic Activities

Please list community and civic activities, including dates and leadership roles you have held, over the last fifteen years.

VOLUNTEER JUDGE – GONZAGA LAW – 1998-PRESENT

JUDGES IN THE SCHOOLS – 2018; 2023; 2025

WOMEN OF ROTARY – 2006-2019

WOMEN HELPING WOMEN – CONTRIBUTOR

WEST SPOKANE/SOUTH HILL KIWANIS CLUB – PRESIDENT OF WEST: 2007-2008; MEMBER 2007-2023

RADIO HOST, KYRS RADIO – “RADIO LAW – THE REVOLVING DOORS OF JUSTICE” 2008-2009

X. Access to Justice and Diversity in the Legal Profession

Please describe any activities that you have engaged in to eliminate bias or improve access to the judicial system.

SINCE 2009, AS ONE OF THE JUDGES RESPONSIBLE FOR STANDING UP THIS MUNICIPAL COURT, I INITIATED AND INTRODUCED APPROACHES BY OUR PROBATION DEPARTMENT TO INCLUDE, FOR THE FIRST TIME, EVIDENCE BASED ANALYSIS TOOLS TO DETERMINE THE NEEDS OF AN INDIVIDUAL WHO IS A PARTICIPANT IN THE CRIMINAL LEGAL SYSTEM WHICH REDUCE BIAS IN SENTENCING AND MONITORING.

ON INVITATION BY THE, THEN, CENTER FOR JUSTICE, INVITED THE LEARNED DR. DOUGLAS MARLOW TO SPEAK WHO INTRODUCED THE CONCEPTS OF RISK, NEEDS, RESPONSIVITY PRINCIPALS WHICH WAS PRESENTED TO PROSECUTION, PUBLIC DEFENSE, PROBATION AND THE COMMUNITY. THOSE PRINCIPALS CONTINUE TO DRIVE THE COURTS APPROACH IN SENTENCING AND MONITORING – AND ACT AS A NEUTRALIZING MANNER IN WHICH TO ADDRESS AN INDIVIDUAL.

I INITIATED THE USE OF ALTERNATIVES TO INCARCERATION FOR NON-VIOLENT CHARGES, ALLOWING FOR A VARIETY OF MEANS TO SERVE A SENTENCE INCLUDING COMMUNITY SERVICE, DAY REPORTING, LIFE-SKILLS TRAINING. I PAVED THE WAY FOR THE DEVELOPMENT OF OUR ENHANCED PROBATION ALTERNATIVE APPROACH – A THERAPEUTIC APPROACH TO PROBATION – LEANING HEAVILY ON THE PERSON CENTERED RESTORATIVE APPROACH SUGGESTED BY DR. MARLOW AND OTHERS INSTEAD OF CHARGE DRIVEN.

I INITIATED EFFORTS TO CREATE A MORE WELCOMING ENVIRONMENT FOR OUR COURTROOMS AND PHYSICAL SETTINGS TO HELP PEOPLE NAVIGATE INTO AND OUT OF COURT WITHOUT IT FEELING AS HOSTILE. I HAVE CHAMPIONED EFFORTS TO IMPROVE ACCESS TO JUSTICE BY INITIATING SATURDAY COURT TO ASSIST THOSE WITH JOBS DURING THE WEEK AND ATTEMPTING TO MAINTAIN POST-COVID, LIVE STREAMING OF OUR HEARINGS SO THE PUBLIC MAY HAVE READY VIEW OF THE COURT SESSIONS. THE LIVE STREAMING WAS REMOVED AGAINST MY VOTE TO MAINTAIN.

EACH OF THE INITIATIVES WERE TO CREATE TRANSPARENCY IN SENTENCING, REHABILITATIVE CONSEQUENCES FOR NON-VIOLENT CRIMES AND ATTEMPTS TO REDUCE BIAS IN SERVING OUR POPULATION.

THE FINAL INNOVATION RESULTED IN THE CREATION OF THE COMMUNITY COURT – A COURT THAT FOCUSES ON THE NEEDS OF AN INDIVIDUAL, REDUCING BARRIERS TO ACCESS TO SERVICES THAT CAN ASSIST IN LIFTING SOMEONE OUT OF UNHEALTHY LIFE PATTERNS AND AT LEAST READY THEM FOR HOUSING AND A MORE PRODUCTIVE LIFE AS WELL AS LIFT THEM OUT OF THE CRIMINAL LEGAL SYSTEM.

What are the most significant barriers to access to justice today? In what ways have you seen these barriers in your practice? How have you worked to increase access to justice?

THE TIMING OF COURT IN AND OF ITSELF CREATES A BARRIER: IF SOMEONE IS EMPLOYED, COURT IS DURING MANY BUSINESSES WORKING HOURS REQUIRING TIME AWAY – IN MINIMUM WAGE JOBS WHICH COULD RESULT IN TERMINATION; CHILD CARE ISSUES, TRANSPORTATION AND TIMING ISSUES, USE OF DIFFICULT LANGUAGE IN PAPERWORK, LACK OF TRANSLATED FORMS FOR VARIOUS PREDOMINANT LANGUAGES BESIDES ENGLISH, CATTLE CALL STYLE DOCKETS, STATUTES THAT REQUIRE IMPOSITION OF FEES TO “PAY” FOR PUBLIC DEFENDERS IF SOMEONE HAS A MARGINAL INCOME, IMPOSITION OF HIGH LEGAL FINANCIAL OBLIGATIONS.

I HAVE IMPLEMENTED DIFFERENT HOURS FOR DOCKETS, STARTING THEM DURING LATE LUNCH HOURS IN AN EFFORT TO NOT DISRUPT WORK SCHEDULES. THE MUNICIPAL COURT HAS MAINTAINED, SINCE COVID, STAGGERED TIME FOR DOCKETS: SETTING A CERTAIN NUMBER OF PEOPLE AT HALF HOUR INCREMENTS TO ALLOW FOR SOME TIME SELECTION BY THE DEFENDANTS AS WELL AS KEEP THE FLOW OF WORK WITHOUT A LOT OF SITTING AROUND WAITING.

THE ISSUE OF TRANSLATING DOCUMENTS IN MULTIPLE LANGUAGES HAS REACHED THE STATE LEVEL, WITH MORE AND MORE MULTI-LANGUAGE FORMS BEING MORE READILY AVAILABLE SOON.

I HAVE IMPLEMENTED A CASE MANAGEMENT APPROACH THAT ATTEMPTS TO CREATE MORE MEANINGFUL APPEARANCE REQUIREMENTS FOR THE DEFENDANT: IF THE ATTORNEY CAN ADVISE THEY HAVE HAD RECENT GOOD CONTACT THE DEFENDANT'S PRESENCE IS WAIVED UNTIL AND UNLESS THERE IS A READINESS HEARING AND TRIAL OR A DISPOSITION WHICH REQUIRE IN PERSON APPEARANCE. THIS APPROACH HOPEFULLY HAS A POSITIVE EFFECT ON FAILURES TO APPEAR.

THERE ARE MULTIPLE RESOURCE PAMPHLETS IN EACH COURTROOM TO PROVIDE READY ACCESS TO ALL WHO ENTER COURT TO INNUMERABLE RESOURCE SITES.

I OFTEN UNDERTAKE FINANCIAL SCREENING TO DETERMINE QUALIFICATION FOR PUBLIC DEFENSE IN COURT, INSTEAD OF SENDING THE PEOPLE TO ANOTHER BUILDING TO UNDERTAKE THE SCREENING. I AM ALWAYS OPEN TO RE-EVALUTING SOMEONE'S ABILITY TO PAY ON EITHER FINES OR PD PROMISSORY NOTES – ALL WITH THE EYE TOWARDS ACCESS TO REPRESENTATION.

FOLLOWING THE AUTHORITY OF *BLAZINA* AND ITS PRODIGY, I CONSISTENTLY ENGAGE IN A COLLOQUY WITH COUNSEL ABOUT THEIR CLIENT'S ABILITY TO PAY – REDUCING OR WAIVING MANY FINES AND FEES.

As a member of the bench, what role, if any, do you believe that a judge has to enhance equal access to justice?

JUDGES ARE REQUIRED TO MAKE BEST EFFORTS TO ENHANCE EQUAL ACCESS TO JUSTICE – FROM 1ST APPEARANCE THROUGH TRIAL AND APPEAL. JUDGES HAVE THE ABILITY TO CONVENE AND BRING FORWARD INITIATIVES LEARNED FROM OTHER JURISDICTIONS IN AN EFFORT TO LIFT UP THEIR OWN JURISDICTION.

REMOVING OR REDUCING IMPEDIMENTS TO ACCESS TO ASSIGNED COUNSEL, ENGAGING IN ACTIVITIES LIKE WARRANTFESTS TO BRING PEOPLE BACK INTO THE SYSTEM, FINE REDUCTION/REPAYMENT CLINICS TO EASE FINANCIAL BURDENS. CREATING MORE OPEN ACCESS TO SERVICES THAT HELP PEOPLE GET OUT OF THE CRIMINAL LEGAL SYSTEM – DROPPING WALLS BETWEEN ENTITIES IN AN EFFORT TO STREAMLINE ACCESS AND REMOVE REPETITION OF EFFORTS.

I HAVE INCORPORATED ALL OF THE ABOVE IN MY DAY TO DAY PRACTICE.

What experiences, training, or knowledge do you have in addressing diversity in the legal profession?

AS A MEMBER OF THE DMCJA, THIS TOPIC HAS BEEN THE FOCUS OF EFFORTS TO REACH OUT TO THOSE WHO DO NOT NORMALLY RAISE THEIR HAND – WHICH SOMETIMES INCLUDES SOMEONE FROM A MARGINALIZED GROUP. I WAS A TEACHER AT PRO TEM TRAININGS FOCUSING ON LAWYERS OF COLOR TO PARTICIPATE SO THAT THEY COULD BEGIN GAINING EXPERIENCE AS A JUDICIAL OFFICER – STRESSING THE IMPORTANCE OF HAVING DIVERSITY ON THE BENCH PARTICULARLY IN THE LIGHT OF THE HIGHER NUMBER OF PERSONS OF COLOR COMING INTO THE SYSTEM – STRESSING HOW THIS INCREASES THE CREDIBILITY OF THE JUDICIARY. BRINGING INCLUSIVITY INTO THE PROCESS.

What can a judge, or court, do to improve diversity in the legal profession?

MAKE CONTACT WITH DIVERSE BAR ASSOCIATIONS TO WELCOME APPLICATION TO LOCAL JURISDICTIONS. A JUDGE CAN ALSO BECOME A PARTICIPANT IN DIVERSE ASSOCIATIONS.

XI. Discipline, Disputes, and Conflicts

Have you ever been held, arrested, charged, or convicted by federal, state, or other law enforcement authorities for violation of any federal law, state law, county or municipal law, regulation, or ordinance? NO

If you answered “yes”, please provide details, including case numbers. (Do not include traffic violations for which a fine of less than \$300.00 was imposed.) Please feel free to provide your view of how it bears on your present fitness for judicial office.

Has a client ever made a claim or suit against you for malpractice? NO

If you answered “yes”, please provide details and the current status of the claim and/or suit.

Have you ever been a party, witness, or consultant in any legal proceeding? NO

<p>If you answered “yes”, please provide details, including the case number. Do not list proceedings in which you were merely a guardian ad litem or stakeholder.</p>
<p>Have you ever been the subject of a complaint to any bar association, disciplinary committee, court, administrative agency, or other professional group? YES If you answered “yes”, please provide details. ON OR NEAR DURING 1989, OPPOSING COUNSEL ACCUSED ME OF HAVING UNAUTHORIZED COMMUNICATION WITH HIS CLIENT. NO NOTICE OF APPEARANCE HAD BEEN FILED REGARDING THE PERSON AND I WAS UNAWARE THE INDIVIDUAL CLIENT WAS BEING REPRESENTED BY THE SAME ATTORNEY THAT WAS REPRESENTING THE COMPANY FOR WHOM HE WORKED. THE BAR INVESTIGATED AND DETERMINED I WAS WITHOUT FAULT.</p>
<p>Have you ever been disciplined or cited for breach of ethics or unprofessional conduct? NO If you answered “yes”, please provide details.</p>
<p>Have you ever been subject to employment discipline, such as a warning, reprimand, suspension, demotion, or termination for cause? NO If you answered “yes”, please provide details.</p>
<p>If you have ever served as a judge, commissioner, or in any judicial capacity, has a complaint for misconduct in that capacity ever been made against you? NO If you answered “yes”, please provide details.</p>
<p>If you are now an officer or director of any business organization or otherwise engaged in the management of any business enterprises, please provide the following: the name of the enterprise, where it is incorporated, the nature of the business, the title of your position, the nature of your duties, and the term of your service. If you are appointed and do not intend to resign such position(s), please state this below along with your reasons for not resigning. N/A</p>
<p>Are you aware of anything that may affect your ability to perform the duties of a judge? NO If you answered “yes”, please provide details.</p>

<p>XII. References – In the evaluation process it is useful for evaluators to speak with attorneys and non-attorneys who are familiar with you. Evaluators may contact each of your references. If a reference is unreachable, your evaluation may be delayed.</p>												
<p>Please list the names, phone numbers, and job titles/employers of up to 5 professional references.</p> <p>JUDGE JEFF SMITH – SPOKANE COUNTY DISTRICT COURT; (509)991-6962</p> <p>DR. DARIN NEVEN – CEO AND FOUNDER OF CONSISTENT CARE; (509)290-3173</p> <p>HOWARD DELANEY – CITY OF SPOKANE MUNICIPAL COURT ADMINISTRATIVE COMMISSIONER; (509)768-7905</p> <p>VIRLA SPENCER – CO-FOUNDER AND CEO WAY TO JUSTICE; (509)822-7514</p> <p>ANDREW CHANCE – EXECUTIVE DIRECTOR SPOKANE PUBLIC LIBRARY; (509)869-7067</p>												
<p>Please list the names and phone numbers of up to 10 opposing counsel who know you best, including at least three opposing counsel on cases that went to trial. N/A</p>												
<p>If you have been a judge or otherwise have served as a neutral decision-maker within the last 10 years, please list the names and phone numbers of the last 10 attorneys who have appeared before you.</p> <table> <tr> <td>ROBERT COSSEY (509) 327-5563</td> <td>JENNIFER PENCE (509) 835-5955</td> </tr> <tr> <td>ZACH LEIGHTON (509) 835-5988</td> <td>RIK WALLIS (509) 835-5955</td> </tr> <tr> <td>DAVID KLING (509)835-5988</td> <td>CANDACE MAGNIN (509) 835-5988</td> </tr> <tr> <td>MADI BATES (509) 835-5955</td> <td>CHRIS BUGBEE (509) 337-5082</td> </tr> <tr> <td>MICHIKO FJELD (509)835-5955</td> <td></td> </tr> <tr> <td>FRANK CIKUTOVICH (509)323-9000</td> <td></td> </tr> </table>	ROBERT COSSEY (509) 327-5563	JENNIFER PENCE (509) 835-5955	ZACH LEIGHTON (509) 835-5988	RIK WALLIS (509) 835-5955	DAVID KLING (509)835-5988	CANDACE MAGNIN (509) 835-5988	MADI BATES (509) 835-5955	CHRIS BUGBEE (509) 337-5082	MICHIKO FJELD (509)835-5955		FRANK CIKUTOVICH (509)323-9000	
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MICHIKO FJELD (509)835-5955												
FRANK CIKUTOVICH (509)323-9000												

For the last five trials in which you participated (whether as a trial lawyer or decision-maker), please list as appropriate the following for each: case name, subject matter, court, judge (with phone numbers), and opposing counsel or counsel appearing before you (with phone numbers).

CITY OF SPOKANE v. JOHN B. HERNANDEZ – UNLAWFUL DISPLAY OF WEAPON; GERHARDT DUNLAP (509)835-5955; SEAN O’QUINN (509)835-5988

CITY OF SPOKANE v. DYLAN HOLDEN – ASSAULT DV & MALICIOUS MISCHIEF DV; MADI BATES (509)835-5955; JEFFREY SAWYER (509)835-5988

CITY OF SPOKANE v. JOSHUA HASTINGS – ASSAULT DV; MADI BATES (509) 835-5955; JEFFREY SAWYER (509) 835-5988

CITY OF SPOKANE v. DOUGLASS R. DIXON – ASSAULT; STEPHANIE VICK (509)477-4246; CONOR BRANDT (509)835-5988

CITY OF SPOKANE v. CHRISTY BRANTNER – VIOLATION OF ANTI-HARASSMENT ORDER; DOUGLAS PHELPS (509)620-0606; CANDACE MAGNIN (509)835-5988

Please list the names and phone numbers of 5 additional attorneys familiar with your professional qualifications, skills, experience, and attributes.

BRIAN RAYMON (509)821-0050
BOB KING (509) 835-5955
CHELSEY HEINDEL (509) 835-5955
CAMERINA ZORROZUA (509) 822-7514
TONY TOMPKINS (509)879-3725

Please list the names and phone numbers of up to three non-attorneys who have either been represented by you or who have worked for you.

DAWN MARIE BENNETT (509)453-6613
KAYELEE ALEXANDER (509)481-0888
JUDY PETERSON (509) 251-5005

Please provide a writing sample of your work (between five and 10 pages long), written and edited by you, within the last five years. I will attach separately in email

XIII. Rating and Evaluations – The Governor’s Office requires individuals seeking judicial appointment to utilize, to the fullest extent possible and as early as possible, the ratings processes from state, county, and affinity bar organizations. To facilitate the process, many of these organizations accept this questionnaire as the principal application in their evaluation process and may also require completion of a supplemental questionnaire.

- Candidates are encouraged to seek ratings from multiple bar associations as early as possible so that your ratings are received by the application deadline or shortly thereafter. You may seek a rating before a notice of vacancy is posted; contact the relevant bar association for its policies and availability.
- Contact affinity bar associations to determine whether an evaluation process will be conducted. Contact information can be found on the Washington State Bar Association’s website at <https://www.wsba.org/connect-serve/other-bars/affinity-bar-associations>. This webpage contains a link to the list of Judicial Evaluation Committee Representatives for those associations who participate in standing judicial evaluation committees. Note that some of the affinity bar associations may conduct judicial evaluations when judicial vacancies occur, even if committee representatives are not listed on the webpage.

- Contact the relevant county bar associations to determine whether an evaluation process will be conducted. Contact information for county bar associations can be found on the WSBA website at <http://www.wsba.org/Legal-Community/County-Bar-Associations>
- If you are applying for a state Court of Appeals or Supreme Court position, contact the Washington State Bar Association (WSBA) Judicial Recommendation Committee to request an interview. The Committee screens and interviews candidates and provides a rating that is reviewed by the WSBA Board of Governors and referred to the Governor for consideration. Committee information can be found on the WSBA website at <http://www.wsba.org/jrc>.

List all ratings you have received from any bar association at any time. Please provide the name of the organization, the rating it gave you, and the year in which the rating was given.

PLEASE SEE ABOVE

To the extent not covered above, list the organizations you have contacted for an evaluation.

XIV. Attestation – All information provided in this questionnaire is true and complete to the best of my knowledge. I understand that the Governor’s Office may verify this information, and that untruthful or misleading answers are cause for rejection of my application or for dismissal if appointed.

Date
JUNE 27, 2025

Signature
MARY C. LOGAN

**IN THE MUNICIPAL COURT FOR THE CITY OF SPOKANE
IN THE STATE OF WASHINGTON**

CITY OF SPOKANE,

Plaintiff,

vs.

BLOCKTON, ROBERT Q.,

Defendant

) Case No.: P23000139

) POLICE REPORT NO: 2021-20219999

) FINDINGS OF FACTS AND
) CONCLUSIONS OF LAW ON
) DEFENDANT'S MOTION TO DISMISS

I.

Should the doctrines of judicial estoppel, equitable estoppel, or invited error, preclude Mr. Blockton from challenging his pre-accusatorial delay?

First, the doctrine of judicial estoppel applies when a party advances a position that is “clearly inconsistent” with its prior legal position creating an unfair advantage or unfair detriment to the other party. *Arkison v. Ethan Allen, Inc.* 160 Wash2d 535 (2007). In this case, Mr. Blockton merely asked the City whether it intended to dismiss the charges without prejudice to obtain blood results. Mr. Blockton took no legal position that the City must dismiss the case. In fact, the defense was prepared to proceed to trial and informed the City of the same. Even if Mr. Blockton had insisted that trial could not take place prior to obtaining the toxicology results, doing so was not an acquiescence to delay in obtaining those results. Mr. Blockton did request the results from the City and inquired whether the City intended to go to trial in short order without the

1 toxicology results or whether the City intended on dismissing the charge and refiling upon
2 receipt of the blood results.

3 To define Mr. Blockton's pre-dismissal queries as some sort of position in litigation upon which
4 the City would rely in deciding to prosecute the case, does not rise to an inconsistent position
5 with reference to the current motion. Likewise, the questions about what the City intended to do
6 with the case have no bearing on the discretion the City almost exclusively holds to dismiss a
7 criminal charge.

8 Equitable estoppel would apply when a party acts or fails to act in a way that is 1) inconsistent
9 with the party's later claim, 2) the other party acts in reliance on the inconsistent act, and 3)
10 injury results from the party's detrimental reliance on the act. *Arkison*, 160 Wash.2d 535. Mr.
11 Blockton took no action upon which the City can assert any detrimental reliance merely by
12 asking whether the City intended on proceeding without the blood results. The City has not
13 asserted that it chose to dismiss the initial charges in this case because Mr. Blockton requested a
14 toxicology report.

15 Invited error applies to appellate cases. The Invited Error Doctrine "prohibits a party from setting
16 up an error at trial and then complaining of it on appeal." *City of Seattle v. Patu*, 147 Wash. 2d
17 717,720 (2002) (quoting *State v. Olson*, 126 Wash. 3d 315 (1995)).As there has yet to be a trial in
18 this case, the doctrine is inapplicable.

19 Mr. Blockton is permitted to bring this motion.

20 II.

21 Was Mr. Blockton prejudiced by the pre-accusatorial delay in his case the parties agree was
22 caused by a delay in toxicological testing at the Washington State Laboratory?

23 The test for whether pre-accusatorial delay violates due process was developed, after
24 analysis across multiple jurisdictions, in the case of *State v. Oppelt*, 172 Wash. 2d 285 (2011).
25 Unlike the position taken by Mr. Blockton, there is no case in the state of Washington that
26 applies a presumption of prejudice due to pretrial delay based upon pre-accusatorial delay – the
27 cases relied upon by Mr. Blockton all apply to the constitutional right to a speedy trial after
28 charging or to the statutory time-for-trial rule. While there may be an analogy to those cases

1 since the base-line concerns are with a defendant losing their ability to adequately present a
2 defense due to the passage of time, the presumption of prejudice has not been extended to due
3 process claims based upon pre-accusatorial delay. The distinction may arise because the Sixth
4 Amendment grants an explicit right to a speedy trial once one is accused, while the doctrine of
5 pre-accusatorial delay is a judicially created action rooted in due process.

6 Negligent pre-accusatorial delay by the state may also violate defendant's due process rights. The
7 core question is whether the action by the state violates fundamental conceptions of justice, and
8 the answer to this question does not necessarily turn on the intent of the state actors.

9 For pre-accusatorial delay in bringing charges to violate due process, per *Oppelt, Id.*: (1) the
10 defendant must show actual prejudice from the delay, (2) if the defendant shows prejudice, the
11 Court must determine the reasons for the delay, and (3) the Court must then weigh the reasons
12 and the prejudice to determine whether fundamental conceptions of justice would be violated by
13 allowing prosecution.

14 Where the state's (here, the City's) reason for pre-accusatorial delay is mere negligence,
15 establishing a due process violation requires greater prejudice to the defendant than cases of
16 intentional bad faith delay.

17 For Mr. Blockton to be entitled to dismissal of charges under the court rule providing that a court
18 may dismiss any criminal prosecution due to arbitrary action or governmental misconduct when
19 there has been prejudice to the rights of the accused which materially affects his right to a fair
20 trial, first, the defendant must show arbitrary government action or misconduct, which may
21 include simple mismanagement, and, second, the defendant must show actual prejudice affecting
22 his fair trial rights. CrRLJ 8.3

23 Mr. Blockton asserts that the prejudice suffered was two-fold: (1) "delayed and ongoing
24 prosecution for the same course of conduct," and (2) "testing and reporting from expired blood
25 collection tubes in (asserted) violation of WAC 448-14(-010)."

26 Addressing the first asserted prejudice of ongoing prosecution, once the case was dismissed by
27 the City, Mr. Blockton was no longer under any conditions on his personal conduct – he was free
28 to enjoy his life unrestricted by any restraints or conditions ordered by the Court. Mr. Blockton

1 has not asserted any interference with work, rest or play during the time between dismissal and
2 ultimate re-filing. Mr. Blockton has not raised interference with employment or opportunity. The
3 single issue raised by Mr. Blockton is the mark on his criminal record which would indeed reflect
4 the original filing of the charge – but which would also show a dismissal. The Court finds that
5 while there is prejudice in having multiple criminal law charges on a person's history, since the
6 disposition of this charge was a dismissal, Mr. Blockton has not raised any issue that would
7 change the perception that the level of actionable prejudice has been established.

8 The other aspect of the delay that must also be considered, however, is the length of the delay
9 itself: i.e., does the 8-12 months of delay in re-filing after dismissal result in actual prejudice?

10 The City relies on the statute of limitations which allows for the (re)filing of a case within the
11 requisite time lines – here within 2 years of the dismissal – as the “backstop” for delay. In the
12 matter before the Court, re-filing did occur prior to the lapse of the statute of limitations, however
13 the inquiry must go deeper.

14 The US Supreme Court in *United States v. Lovasco*, 431 U.S. 783, 97 S.Ct. 2044, 52 L.Ed.2d
15 752(1977) held that a pre-accusatorial delay can result in a due process violation even where the
16 statute of limitations has not expired. The Court held that while the statute of limitations provides
17 a definitive legislative limit, due process may also be implicated. The Court held that the action
18 violates “...fundamental conceptions of justice which lie at the base of our civil and political
19 institutions,” and which define “the community's sense of fair play and decency.” The Court in
20 *Lavasco* also stated that “proof of prejudice is generally a necessary but not sufficient element of
21 a due process claim, and the due process inquiry must consider the reasons for the delay as well
22 as the prejudice to the accused.” *Id.*

23 In this case, the delay and the potential of actual prejudice revolve around the same fact: the
24 length of time it took to test the blood.

25 The City posits that the delay is due to the triage decisions of the Washington State Patrol
26 Toxicology Lab prioritizing felony matters above the misdemeanor blood cases, resulting in an
27 acknowledged backlog that has existed for years. As to this particular issue regarding delay,
28 which is a known backlog resulting in at least 8-12 months of delay before the evidence is tested

1 – does this fall within the standards of “the community’s sense of fair play and decency?”
2 *Lovasco, Id.*

3 The Court in the *Oppelt Id.*, decision determined that a delay of 6 years did not run afoul of those
4 standards, but a review of the piece of evidence that decision turned upon is distinguishable from
5 this case: the testimony of an aging grandmother which was slightly off on one point but
6 otherwise consistent was deemed to not prejudice the defendant because in that case, there was
7 otherwise substantial evidence that supported the accusation and because the defendant could
8 cross examine on the inconsistency. The City also asserts that this delay is not prejudicial to the
9 defense because Mr. Blockton can cross-examine on the issue – presented as “fertile” with issues
10 to be presented to a jury to disregard the test.

11 Mr. Blockton is asserting that because of the delay in testing resulting in expiration of the tube
12 containing his blood, it is possible that damage to a critical piece of evidence may have taken
13 place. However, there is no method of determining if this applies to the vial in this case because
14 the expiration of the topper to the tube has already taken place. The manufacturer represented, as
15 the City quoted in its Response that “...BD cannot provide any guarantee or representation
16 regarding the function and efficacy of BD Vacutainer Tubes after the date of their expiration.”

17 The City asserts that the expiration has little to do with the viability of the blood sample,
18 although the supporting scientific materials absolutely confirm that a change takes place with the
19 blood over time post expiry of the rubber topper. The question becomes why would any change
20 be deemed acceptable when attempting to convict someone of a crime? While this Court is not
21 making any sweeping statements regarding all blood vial cases, in this case, the critical piece of
22 evidence may have been eroded, but there is no ability of the defense to have a comparison
23 between the reading of the contents of the vial prior to expiration and post expiration. Even the
24 ability to test within expiration could have eliminated any issue regarding the contents of the
25 vials containing samples of Mr. Blockton’s blood because the WSPTL retained exclusive control
26 over the only vials of blood available and did not test them until months after expiration.

27 Further, even if Mr. Blockton were able to access the vials in a timely manner for testing
28 purposes, this seems to place the burden of proving or disproving of the per se prong of the DUI

1 statute on defense – a violation of his due process rights –amounting to potential actual
2 prejudice.

3 Since the City has chosen to proceed with prosecution based upon the per se test results and not
4 on the “affected by” prong of the statute, the critical piece of evidence is the blood sample in this
5 case. This action did prejudice the defendant.

6 The next question this court must answer is whether fundamental conceptions of justice would be
7 violated involving “the community’s sense of fair play and decency” by allowing prosecution
8 just shy of 12 months from the date of accusation in this case to now re-open the file and charge.

9 A determination of this issue falls to a review of that subjective arena of “...fair play and
10 decency.” *Lovasco, Id.*

11 At almost every legislative session that passes each year, an effort is made by legislators to make
12 driving while under the influence more punitive and restrictive in an effort to keep the public
13 safe and dissuade citizens from driving while impaired or intoxicated. This last session, an effort
14 was made to reduce the “per se” levels to .05. In the recent past, legislation was passed to make 4
15 (gross) misdemeanor convictions of the DUI statute the predicate to a felony filing. Every
16 holiday there is a warning about emphasis patrols regarding driving while under the influence –
17 in the last DUI emphasis in Spokane occurred around Hoopfest where it was broadly publicized
18 that multiple jurisdictions would be involved in the investigation and arrest for Driving While
19 Under the Influence. Courts in this state have special rules regarding DUI cases that involve
20 mandatory holds on individuals charged with DUI/Physical Control until seen by a Judicial
21 Officer (Spokane Municipal Court General Order 2023-04)

22 While the Washington State Patrol Toxicology Laboratory may not prioritize the testing of blood
23 samples in misdemeanor cases, the push from the representative body of the community, the
24 Washington State Legislature, places high priority on the prosecution of DUI offenders. While
25 the City does not directly control the WSPTL, it does choose the path of a case, by choosing to
26 pursue the per se violation which requires the testing results – so familiarly delayed, that the
27 practice by the City is to dismiss the case without prejudice based upon known delay in testing.
28 Mere negligent conduct by the prosecutors is still a basis upon which due process can be

1 violated. The delay and/or prejudice suffered by the defendant will have to be greater than in
2 cases where recklessness or intentional governmental conduct is alleged. *Lovasco, Id.*

3 The actual damage/prejudice that Mr. Blockton alluded to cannot be determined if the blood
4 results are unscathed by the delay. In this case there is the potential deterioration or damage to
5 the single damning piece of evidence in a “per se” case: Mr. Blockton’s own blood. The reasons
6 for the delay are not noble – they are administrative based upon a back log created by the
7 Washington State Patrol Toxicology Lab.

8 The City has raised that Mr. Blockton has no complaint as it is aware that the results may
9 actually “benefit” Mr. Blockton because of the deterioration that is known to exist, resulting in a
10 lesser amount of detected ETOH, indicating a lower test result. Why would that known lessened
11 result be satisfactory to prosecute?

12 The case authority states that negligent conduct can still be a violation of due process and it is the
13 determination of this Court that in this case that violation exists. The prejudice suffered by Mr.
14 Blockton is the inability to test the blood before the possibility of taint due to expiry of the tubes-
15 a possibility that is well documented in the research. While this court recognizes and has
16 reviewed the numerous other states’ cases involving this same subject, as well as those cited by
17 Mr. Blockton there are no such cases regarding prejudice by preaccusatorial delay in the state of
18 Washington.

19 The delays raised in the *Denton* case (23 Wn.App. 2d 437); *State v. Woods*, 143 Wn 2d 561;
20 *State v. Wake*, 472 all speak to the chronic issue of the backlog. However, in the context of time
21 for trial cases, the essence is the backlog and the WSPTL’s inability to test in a timely fashion.

22 The complaint is a corollary to the pre-accusatorial delay its just that the City has preserved the
23 timing by dismissing the case and refileing once the results are available. The negligent conduct
24 of the handling of the blood vials remains a constant throughout.

25 In addressing the third prong of the *Oppelt, Id.*, formula, the negligence of the WSPTL creating a
26 back log that has caused the tubes containing the blood of Mr. Blockton to be subject to
27 deterioration by failing to test prior to the expiration creates a prejudice to Mr. Blockton that no
28 amount of cross examination can properly address. Further, the inference by the City that Mr.

1 Blockton could conduct his own testing, places a violative burden on him protected under rights
2 against self incrimination – and also re-raises the issue that the blood samples are in tubes that
3 have now expired. Therefore, there is no real way of knowing the chemical make up of the blood
4 as it existed in close proximity to the alleged incident in this case.

5 The actual prejudice to Mr. Blockton violates due process and the community's expectation of
6 fair play and decency.

7 III. CONCLUSION

8 The City's assertion of judicial estoppel as well as equitable estoppel do not apply. There was no
9 evidence raised that by Mr. Blockton merely asking for the toxicology report or asking the City's
10 position would have made any difference in the City's decision to initially dismiss this action
11 awaiting results. As to equitable estoppel, the record is bereft of any evidence that the City
12 detrimentally relied upon any action by Mr. Blockton. Lastly, the invited error doctrine is
13 inapplicable where no trial has occurred. As a result, this aspect of the motion is denied.

14 By allowing the motion to proceed, the Court must engage in a three-step process to determine
15 whether the dismissal is justified based upon the judicially created concept of pre-accusatorial
16 delay.

17 First is a determination of actual prejudice. Mr. Blockton asserted 2 bases of prejudice: multiple
18 charges marring his criminal record and damage to a critical piece of evidence. While this court
19 recognizes that multiple charges on a criminal history are viewed negatively, no specific burden
20 was raised by Mr. Blockton regarding an inability to gain or keep employment, or housing or any
21 other personal detriment, so no actual prejudice is determined by the multiple charges. The
22 damage or deterioration to the single piece of evidence that does rise to a level of prejudice is the
23 delay and potential damage to the blood sample based upon the backlog of testing in this case
24 that delay results from the date of dismissal by one week shy of 12 months. The handling of the
25 blood test in this case raises the real possibility, known by scientific studies referred to in
26 briefing, that the blood results do deteriorate. What is unknown is the value of the sample prior
27 to expiration which results in a violation to Mr. Blockton – damage to a critical piece of
28 evidence. While cross examination may mitigate some harm, it cannot overcome the inability of

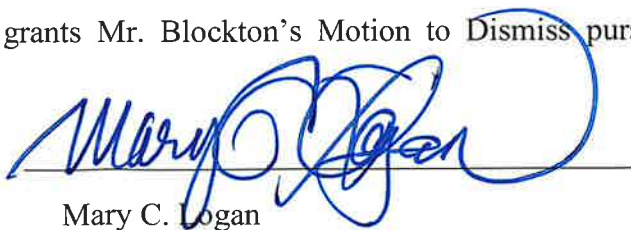
1 Mr. Blockton to have access to undamaged evidence that is at the very heart of this per se
2 prosecution.

3 The second prong is an examination of the reasons for the delay in testing. The excuse proffered
4 by the City was the known backlog at the Washington State Patrol Toxicology Lab, which
5 prioritizes felony testing over misdemeanor DUI testing. The backlog has been raised by
6 multiple courts and has been known for years. The delay and the backlog do raise to the level of
7 negligent management that violates fundamental conceptions of justice which define the
8 community's sense of fair play and decency. The State's legislature, the representatives of the
9 community at large, address and readdress the seriousness of the charge of DUI. The delay is
10 created by administrative decisions by the WSPTL which result in negligent handling of
11 evidence – delays that have been known about for years and are allowed to get worse and not
12 corrected.

13 The third prong is weighing the harm to Mr. Blockton by the delays. The delays have caused a
14 known change to the evidence at the heart of this case. Due to the length of time the WSPTL
15 maintains the results, Mr. Blockton stood no chance of having a test result on untainted or
16 unchanged blood. No amount of cross-examination or attack on the negligent manner in which
17 the blood tests were handled can overcome the effects of their use at trial. Additionally, the
18 results of the test could be either inculpatory or exculpatory – so that even if the court were to
19 consider suppression of the results, Mr. Blockton is prejudiced in the potential of exculpatory
20 value that may exist in raising a defense.

21 Based upon the foregoing, the Court grants Mr. Blockton's Motion to Dismiss pursuant to
22 preaccusatorial delay.

23 Dated: July 14, 2023

24 
Mary C. Logan
Municipal Court Judge